IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18/09/2003

CORAM

THE HONOURABLE MR.JUSTICE A.K.RAJAN

Writ Petition No.8520 of 2001

R.J.A.Raveendran ..... Petitioner

-Vs-

1. State of Tamilnadu
rep. by Secretary to Govt.
Municipal Admn. and Water Supply
Department, Secretariat, Fort St.George
Chennai

2. Commissioner
Corporation of Madurai
Aringnar Anna Maligai
Madurai 625 002 ..... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India, praying to issue a writ of certiorarified mandamus, as stated therein.

For Petitioner : Mr.K.Rajasekar

For Respondents : Mr.R.Vijayakumar
Govt. Advocate for R1.
Mr.P.Srinivas for R2.

:ORDER

This writ petition has been filed to issue a writ of certiorarified mandamus, to call for the records pertaining to the order of the first respondent in Lr.No.2703/M.C4/2001-2 dated 03.04.2001 and to quash the same and to direct the respondents to promote the petitioner to the post of Public Relations Officer, Madurai Corporation.

2. The brief facts that are necessary for the diposal of this writ petition is as follows:
(i) The petitioner was appointed as Junior Assistant in the year 197
5. Later on, he was promoted as Assistant on 01.04.1994. In April 200 0, he obtained P.G. Diploma in Public Relations. The post Public Relations Officer in the Municipal Corporation prescribed the qualification as P.G.Diploma in Public Relations. No other person is holding that qualification except the

petitioner. Therefore, the petitioner gave a representation on 12.04.2001 to consider him for promotion as Public Relations Officer. That was rejected on the ground that on 04.02.1999, as person by name P.Muthiah was deputed as Public Relations Officer. Therefore, the petitioner cannot be appointed to that post.

(ii) Further, in the counter filed by the respondent it is stated only if the petitioner is promoted to the feeder category of Superintendent, his right to the appointment can be considered and admittedly the petitioner has not been promoted as Superintendent. Therefore, the respondents have rejected his representation for promotion as Public Relations Officer.
3. The learned counsel submitted that there are instances where in similar cases, when there was no qualified person available in the department, and when the juniors were holding the post continuously and they were appointed as Public Relations Officer (Rural). Therefore the petitioner can

be appointed as PRO under the rules.
4. The counsel referred to Clause No.5 of the relevant service rules, which reads as follows:

"(5) Continuance of the Existing Deputations in the Corporations:

At present, in the Corporation, some officers are working on deputation either from the Government or Board services. Under the new Rules, the deputation of officers to the Corporations has been minimised. Therefore, those who have been deputed from Government service or from any Board service may be reverted at once to their parent departments if qualified and suitable Corporation employees are available in the Corporations. If qualified Corporation employees are not available, the deputationists may continue in the Corporations for the present. However, in the places of such deputationists, new deputationists either from other Corporations or from the municipal service may be appointed in accordance with the provisions of the new Corporation Service Rules."

From the above rule, the counsel submitted that it is seen that those who were deputed from Government service or from any Board services may be referred to parent department, if qualified persons are available in the corporation itself. Therefore, by virtue of this rule, the petitioner is being the only qualified person, he shall be appointed as Public Relations Officer.

5. Though this argument appears attractive, it is not acceptable. Inasmuch as for a person to be appointed as Public Relations Officer, he should be holding the post of a Superintendent. Unless he has already holding the post of Superintendent, he cannot be considered for promotion of Public Relations Officer, eventhough he has the qualification for the appointment of Public Relations Officer. Inasmuch as the petitioner has not reached a cadre of Superintendent, he cannot expect that he should be appointed as Public Relations Officer merely because he possess the requisite qualification that is prescribed for the post of the Public Relations Officer. Further a person cannot ask as a matter of right for relaxation of the rules in case of

appointments or in the case of promotion to higher cadre. It is for the authorities to consider such representation for relaxation of the rules. Consideration of the relaxation is not a matter of right and therefore, the contention of the petitioner cannot be accepted. Therefore, there is no merit in the writ petition.

6. In the result, the writ petition is dismissed. No costs.

Index:Yes
Internet:Yes
ksr

To

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